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BEFORE THE
U.S. DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Petition of United Parcel Service Co.
To Institute a Public Inquiry Into
the Citizenship and Foreign Control
of DHL Airways, Inc.

Docket OST-2002-13089 - 35

In re Compliance with U.S. Citizenship
Requirements of DHL Airways, Inc.

Docket OST-2002-13590 - 7

Third-Party Complaint

COMMENTS OF LYNDEN AIR CARGO

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March 19, 2003

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| Petition of United Parcel Service Co. To Institute a Public Inquiry Into the Citizenship and Foreign Control of DHL Airways, Inc. |)))))) | Docket OST-2002-13089 |
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On March 5, 2003, the Department requested comments from interested parties on the findings of the Department’s Inspector General dated March 4, 2003 (hereinafter “the IG’s Findings”) on the process used by the Department to review the compliance by DHL Airways with the citizenship requirements applicable to all air carrier certificate holders (hereafter “the citizenship review”). On March 11, 2003, the Department released the unredacted version of the IG’s Findings. As an interested party in this matter, Lynden Air Cargo, LLC (“Lynden”) hereby responds to the Department’s March 5 invitation and submits its comments on those findings.

Lynden is an all-cargo air carrier certificate holder domiciled in Alaska. It specializes in moving oversized commercial and U.S. military cargoes to remote locations throughout the world with its fleet of specialized Lockheed L-100 "Hercules" aircraft. Lynden competes for

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its business on an arm's length basis. Its access to capital is determined solely by its own financial performance, and it pays the salaries of its own personnel - not to mention its own taxes and other government charges. It is a U.S. taxpayer.

According to the IG's Findings, it would appear that DHL Airways operates quite differently. Unlike Lynden, DHL Airways' entire fleet is leased to a subsidiary of its foreign-owned holding company. A parent of that holding company, which is organized in a tax-haven country and is owned by a foreign postal monopoly, effectively guarantees the credit-worthiness of DHL Airways. Finally, the foreign-owned holding company pays much of the operating costs of DHL Airways, including compensations for its officers and employees and the fines, taxes and other government charges it incurs.

Under these circumstances, the Department's recommendation to DHL Airways that it hire a marketing executive to increase its third party revenue raises profound questions of propriety. The Department effectively encouraged DHL Airways to compete unfairly and unlawfully with law-abiding U.S. taxpayers, like Lynden, that do not have the benefit of comparable foreign subsidies. Lynden has lost a contract for military carriage to DHL Airways under circumstances that defy any rational explanation other than as a response to the Department's recommendation. In the case of Lynden, therefore, the Department's recommendation to DHL Airways has had an effect in the market place. It is not, under any circumstances, a legitimate function of the Department to make recommendations to a carrier, particularly one receiving foreign financial benefits, on how it can compete more

COMMENTS OF LYNDEN AIR CARGO

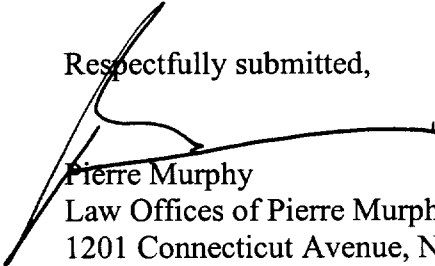
effectively with established air carriers like Lynden. The Department's conduct in this respect - which was not publicly disclosed until the IG's Findings were released - should be very carefully considered and independently reviewed.

As Lynden has previously commented herein to the Department:

If DHL Airways has entered this market [for military cargoes in competition with Lynden] in response to any recommendation made by the Department, that alone would raise serious questions regarding the propriety of the Department's role in this case. Lynden therefore requests that this question be assigned specifically to an Administrative Law Judge for investigation and resolution.¹

In light of these developments, the Department should grant the pending request for an oral evidentiary hearing before an Administrative Law Judge to examine all aspects of the Department's conduct in the citizenship review, including the propriety of its recommendations.

Respectfully submitted,



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March 19, 2003

¹ See: Lynden Air Cargo's *Reply to DHL Airways and Statement in Support of the Motions Filed by United Parcel Service Co. and Federal Express Corporation*, at p.3, 4 (December 12, 2002).

Certificate of Service

I hereby certify that I have this 19th day of March 2003 caused this Lynden Air Cargo Reply to DHL Airways and Statement in Support of the Motions filed by United Parcel Service Co. and Federal Express Corporation to be served on each party listed below by telecopier.

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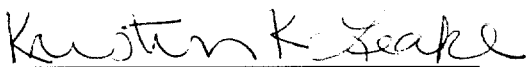
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